

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

COMMONWEALTH UTILITY)
EQUIPMENT COMPANY, INC.,)
Plaintiff,)

vs.

ALTEC INDUSTRIES, INC.,)
Defendant.)

) Civil Action No. 08-642
) Judge Gary L. Lancaster/
) Magistrate Judge Amy Reynolds Hay

ORDER

AND NOW, this 29th day of September, 2008, after the plaintiff,

Commonwealth Utility Equipment Company, Inc., filed an action in the above-captioned case, and after a motion to dismiss was filed by defendant, Altec Industries, Inc., and after a Report and Recommendation was filed by the United States Magistrate Judge granting the parties until September 15, 2008, to file written objections thereto, and upon consideration of the objections filed by defendant, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that defendant's Motion to Dismiss [Dkt. No. 4] is DENIED as to Count II, and DISMISSED as moot with respect to Count III.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the defendant desires to appeal from this Order it must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed. R. App. P.



GARY L. LANCASTER
United States District Judge

cc: Honorable Amy Reynolds Hay
United States Magistrate Judge

All counsel of record